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REMARKS

The Applicant notes that the Examiner has acted on the original claims 16-29 as submitted in the Preliminary Amendment of February 2, 2005 which to the Applicant's knowledge, was not entered in view of the Notice of Non-Compliance issued by the U.S. Patent and Trademark Office on November 13, 2006. In response to this Notice of Non-Compliance the Applicant re-entered claims 16-30 in the Applicant's Response to the Notice of Non-Compliance which included formal corrections to these claims not included in the originally filed claims 16-30. In any event, the Applicant has canceled claims 16-29 in favor of new claims 31-45 including substantially the same subject matter as the previously submitted claims, and additionally added new claims 46-50.

Claims 16-22, now claims 31-37 are rejected, under 35 U.S.C. § 102(b), as being anticipated by Hensgen et al. '965. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

As the Examiner is aware, in order to properly support an anticipation rejection under 35 U.S.C. §102(b), the cited reference must disclose each and every feature of the presently claimed invention. Hensgen et al. '965 describes a packaging machine for winding a continuous strip of a dividing material between the slices of a material such as cheese, to overcome the tendency of the slices to adhere (column 1, lines 1-5). In this patent, the interlacing device is integrated in the packaging machine, adapted to one type of product and importantly interferes with the operation and running of the machine. Different from the present invention, Hensgen et al. '965 not disclose or teach a gantry separate from the packaging machine as in the present invention, which allows the Applicant's interlacing device to run independently of the operation of the packaging machine with its own driving means.

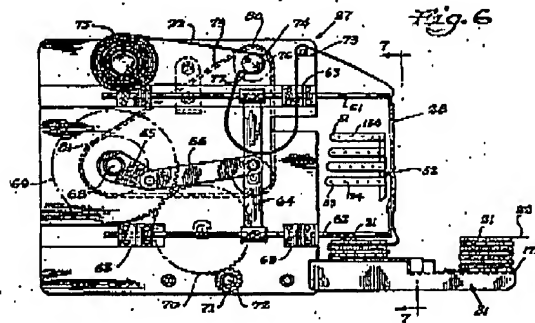
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In order to clarify this aspect of the present invention, claim 31 includes the recitation "wherein the interlacing device (10, 10') also comprises drive means independent from the operation of the machine (1) which palletizes the elongated products (2) . . .". Such a feature is not disclosed, taught or suggested by the applied reference. In fact, Hensgen et al. '965, at column 3, lines 39-46, clearly states in conjunction with FIG. 6 therefrom as shown below, that the drive crank 65 kinematically drives all the cooperating and integral elements of the feed means 45, stacking means 52 and dividing material guide 28.

Crank 65 thus provides a simple means for obtaining a dwell of the guide at either end of its stroke, which dwell is necessary to permit the deposit of the next slice by the stacking means, and at the same time the crank produces a simple positive movement of the guide when the stacking means is clear of the path of movement of the guide.



Thus, as the cited Hensgen et al. '965 reference does not disclose, teach or suggest at least this feature of the presently claimed invention where the gantry drive is separate and independent of the palletizing drive as recited in claim 31, and in that claims 32-37 depend directly or indirectly upon claim 31 which is believed allowable in view of the above remarks and new claims, the Applicant respectfully requests withdrawal of the anticipation rejection.

The Examiner considers that claims 26-30, now claims 41-45 are anticipated by Haefelinger '121. Haefelinger '121 represents the nearest prior art as cited in the description at paragraph [007]. Similar to the previous reference, Haefelinger '121 also discloses that the

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interlacing device is integrated directly into the drive and kinematic mechanisms of the palletizing machine and the gripping means to displace the tubes to be palletized as well as to displace the interlacing material between the palletized tubes. As discussed above, this is not an optimal technical solution because it is necessary to stop the palletizing cycle to do one interlacing cycle which is to move the spool of interlacing material from one support to the other. This interlacing device does not have a interlacing gantry drive separate from the packaging machine like in the present invention, which allows it to run independently with its own drive means. Accordingly, similar to claim 31, claim 41 (previously claim 26) includes the feature, "wherein the interlacing device (10, 10') also comprises drive means separate from the operation of the palletizing machine (1) which palletizes the elongated cylindrical products (2) . . .". Again, as this feature of the presently claimed invention is not disclosed taught or suggested by the cited reference, the Applicant believes these claims to be allowable as well.

Claims 23-25, now claims 38-40, are rejected, under 35 U.S.C. § 103(a), as being unpatentable over Hensgen et al. '965 in view of Chujo et al. '687. Although these claims are dependent either directly or indirectly on claim 31 which is believed allowable in view of the above rewritten claims and remarks, in order to be fully responsive to the Official Action the Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the above amendments and the following remarks.

As the Examiner is aware, in order to properly support a combination of references under 35 U.S.C. § 103(a), the references must provide some disclosure teaching or suggestion which would lead one of ordinary skill in the art to combine the references in order to achieve the presently claimed invention.

Chujo et al. '687 discloses an apparatus to interpose spacers between adjacent glass plates being vertically stood in a pallet. In this patent, the gantry is fixed and the guides (54)

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are supported by a sliding plate (36) which is driven by a step motor (38). This device does not have a gantry being movable by drive means, which allows it to adapt its displacement to different widths of products or pallets. Furthermore, the spacers interposed between the plates of glass are not intended to be formed from a continuous piece of material, thread or tape as in the present invention. As noted at column 2, lines 61-62 of Chujo '687, "... the method including the following steps in the sequence set forth . . . cutting the spacer at a position above the top of the first plate. This is just one example among many between the references which shows that fundamentally these two references are drawn to solving entirely different problems. Importantly, their mechanisms, kinematics and function are specifically different for the different products to which the references are directed, namely the plate glass products of Chujo '687 and the cylindrical tubes or pipes of Hensgen et al. '965. Thus, the Applicant believes that these references relate to such disparate products and problems associated directly with those products, that one of skill in the art would not be motivated to regard the teachings or disclosure of one or the other to solve any issues relating to a specific plate glass or tubular product.

Even if these references can be combined, and the Applicant adamantly asserts that they cannot be, neither Hensgen et al. '965, Haeffelin '121 nor Chujo et al. '687, either alone or in combination with themselves or any other prior cited documents, disclose an interlacing device which comprises a gantry drive independent from a palletizing machine and having its own gantry drive to alternately displace the gantry from one side to the other side of the pallet as recited in each of the independent claims.

The Applicant has added claims 46-50 to further clarify the novel aspects of the present invention. Claim 46 clearly recites the feature, "wherein the drive for displacing the interlacing gantry (11, 11') is *independent* from any drive of the palletizing machine so that operation of the interlacing gantry does not interfere with operation of the palletizing machine". Claims 47-49

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recite specific structure facilitating translational movement of the present invention which is not disclosed, taught or suggested by any of the cited references. In accordance with the description at Applicant's paragraphs 046-048 and FIGS. 6-8, new claim 50 claims the actuation of the guides in a manner substantially perpendicular to the first interlacing direction so as to permit wrapping of the interlacing material around a vertical post used to support the palletized material. This feature is also not shown disclosed or taught by the cited references.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised anticipation and obviousness rejections should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Hansgen et al. '965, Haeffelin '121 and Chujo et al. '687 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejections should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

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The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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